

REMARKS

Remarks Concerning the Amendments

Antecedent basis for the amendments and new claims may be found generally in the specification and, for example, on pages 7-14.

Remarks Concerning the Rejections

In the Office Action mailed on March 20, 2003, the U.S. PTO:

a) Asserted that the “proposed drawing correction and/or the proposed substitute sheets of drawings, filed December 9, 2002 have been accepted.” The statement then continues that “A proper drawing correction or corrected drawings are required in reply to the Office Action to avoid abandonment of the application.” As the formal drawings with labels have already been submitted and accepted and there are no more outstanding objections to the drawings made, it is assumed that all formality requirements with the drawings have been addressed. This amendment is being filed well in advance of the statutory date so that sufficient time to correct any issues may still be available.

b) Claims 1-3, 11-13, 16, 19, 29, 31, 34-37, 39-43, 48 and 50-54 are rejected under 35 USC 103(a) as unpatentable over Bunnell (U.S. Patent No. 6,075,939).

c) Claims 13, 14, 18-27 and 49 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Fullerton (U.S. Patent No. 4,607,844).

d) Claims 15 and 49 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Fullerton (U.S. Patent No. 4,607,844) (as above) when further considered with Pascal et al. (U.S. Patent No. 5,791,851).

e) Claims 28-33 have been rejected under 35 U.S.C. 103(a) as unpatentable over Houriet, Jr. et al. (U.S. Patent No. 5,575,717) in view of Mitchell et al. (U.S. Patent No. 5,872,973).

f) Claims 7, 8, and 14 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of David A. Rusling, *The Linux Kernel*, (Herinafter “Rusling”).

- g) Claims 9, 10, 17, 38, 44 and 47 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Pascal (as applied to claims 22, 23) in further view of Bock (U.S. Patent No. 5,155,856) and Davis (U.S. Patent No. 6,401,208).
- h) Claims 45, 46 and 50-51 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Wiltshire (U.S. Patent No. 6,409,602).
- i) Claims 4, 5, 38 and 55-57 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Arbaugh et al. (U.S. Patent No. 6,185,678).
- j) Claim 6 has been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Arbaugh et al. (U.S. Patent No. 6,185,678) (as above) in further view of Pascal.

PRELIMINARY REMARKS CONCERNING THE INVENTION AND THE CLAIMS

It is to be first noted that claims 39-46 have been voluntarily withdrawn by canceling those claims, Applicants reserving the right to prosecute claims to that subject matter on their merits in a later application claiming priority under 35 U.S.C. 120 from this Application.

Additionally, all claims now pending in this application recite the following language or its functional equivalent:

that a "program object calls up an Application Program Interface."

In contrast, all prior art systems shown in references used in the rejection have passive shared objects that are called through an API. Our claims require an active program object that functions to call a system handler application. In addition to all of the other arguments presented below, which further define issues that establish that the present invention, this limitation, which is present in all remaining claims, defines a structure, method and apparatus that is not disclosed in the prior art used in the rejection of claims in the Office Action mailed March 20, 2003. In addition to the fact that this limitation is not taught by that prior art, this limitation provides definite benefits to the performance of the security for the gaming system and other features of the gaming system as compared to the methods of the prior art references cited in the rejections. The limitation requires that the order of execution in the apparatus, software and games is that the gaming program object calls up the API (Application Program Interface). This is distinct from what is shown in Bunnell (the primary reference in most of the rejections). Bunnell the program objects are passive, are not capable of making calls to the API, and are called by the API by the system handler. This is significantly and unobviously different from the recited limitation of the API being called by the program objects. This limitation in the claims clearly exists, this limitation is not shown by Bunnell or any other reference used in the rejections of record. There cannot be any motivational basis for changing the order of operation and execution of the functions in Bunnell and the other references used in the rejection. Without any motivational basis for making this significant change, the limitation and the claims containing the limitation cannot be obvious from the art used in the rejection. As that limitation or its substantial equivalent is present in every claim remaining in the Application, all of the rejections of claims are in error and must be withdrawn.

RESPONSE TO REJECTION

b) Claims 1-3, 11-13, 16, 19, 29, 31, 34-37, 39-43, 48 and 50-54 are rejected under 35 USC 103(a) as unpatentable over Bunnell (U.S. Patent No. 6,075,939).

The rejection in the Office Action is believed to be fairly summarized as follows:

Bunnell et al. is asserted to show:

- 1) A system handler, executed by the operating system kernel, operable to dynamically link with at least one program object;
- 2) An operating system comprising a system handler;
- 3) A system handler comprising a plurality of device handlers;
- 4) A system handler that loads and executes program devices;
- 5) The kernel is modified to access user level code from ROM;
- 6) The kernel is modified to execute from ROM;
- 7) Kernel modifications are modular;
- 8) The system handler comprises APIs with functions callable from program objects;
- 9) The system handler can manage an event queue; and
- 10) The system handler loads and unloads program objects.

The rejection then lists thirteen (13) elements (identified as b-n elements) in the claims that the Examiner agrees are not shown by Bunnell et al. The rejection then asserts that the elements not disclosed by Bunnell et al. are “typical game element device methods employed on a PC.”

In separate rejection under 35 U.S.C. 103(a), the Examiner then cites four references (Rusling, *The Linux Kernel*, <http://www.tldp.org/LDP/tlk/tlk.htm> (1999), Pascal et al. (U.S. Patent 5,971,851), Bock et al. (U.S. Patent No. 5,155,856), and Davis (U.S. Patent No. 6,401,208) to show individual elements that are recited in dependent claims as obvious over the teachings of Bunnell et al. and the Official Notice taken by the Examiner. These rejections are respectfully traversed.

The rejection fails in a number of regards. The first level of traversal in the rejection is the failure to appreciate the complexity of the use of a system handler in **A GAMING SYSTEM ENVIRONMENT**, the differences between general PC usage and usage in a gaming system, and the unique aspects of the system recited in the claims as compared to the systems described in the prior art cited against the claims. Additionally, the above amendments to the independent claims emphasize features thought to be implicit in certain claims but now literally and clearly recited in the

claims and finding antecedent basis in the original specification as filed. For example, the limitations of:

- a) to verify that the operating system kernel or a code for a shared object has not changed; (e.g., Page 11, lines 14-18)
- b) the gaming program object calling up an Application Program Interface; (Page 6, lines 4-16) and
- c) cause a system handler application load and execute gaming program objects; cause a loaded gaming program object to call up a library of functions; load a first program object from the library, (Page 6, lines 4-16 and Page 10, lines 8-26).

The differences between the gaming system environment and the fields of use described by Bunnell et al. are first evident in the fact that Bunnell et al. does not show a game controller, game programs, and game objects. There is nothing in Bunnell et al. that directly ties that reference into the field of practice recited in the claims, not only in the preamble, but within functional limitations in the elements of the claims themselves. This substantive initial difference becomes extremely important with regard to the differences in the function and components of the system and methods recited in the claims of the present application.

To begin with, the underlying operations of the claimed system and the system of Bunnell with regard to the terminology of "dynamic linkage" are quite distinct. Claim 1, for example, specifically recites:

"...a system handler application operable to dynamically link with at least one gaming program object..."

This is quite distinct from what is described in Bunnell et al. For example, looking at Figure 4 of Bunnell et al. (and reviewing the entire specification of Bunnell), the operation of the technology does not show a system handler application that "dynamically links with at least one gaming program object..." In fact, the Figure and the disclosure do not show dynamic linking, as recited in the claim, that performs at the same hierachal level as that recited in the claim. Looking at Figure 4 of Bunnell, the dynamic linking recited in the claim would be above (e.g.—at a higher level, such as at an application level, or between an application and operating system level) all elements shown in that Figure, not at the lower level of the ROM BIOS kernel shown in Figure 4 and described in the text of Bunnell et al. Therefore, in addition to failing to provide any direct nexus into the gaming art, the actual performance of Bunnell et al. is excluded by the present claims, and the present claims require the performance of steps and the presence of recited functions that are not shown by Bunnell.

Reviewing Bunnell in the most positive light, it can be seen that the level of dynamic linkage is in fact substantively different than that recited in the claims, occurring between the system handler and a gaming program object. For example, looking at the complete disclosure of Bunnell, wherever “dynamic” or “linkage” or “linking” appears in the specific or claims, the following portions of the Bunnell specification should be noted.

At column 7, lines 62-65, Bunnell states under “Alternate components” that there should be a “dynamic system call facility” which does not expand the method of performance specifically taught by Bunnell and as illustrated by Figure 4. This is a general reference, with no probative teaching, and no description of a system handler dynamically linked to a gaming program object.

Column 10, lines 55-67 describes dynamically establishing relationships and then refers to objects that have already been linked. This is a dynamic linking for system calls, dynamically linking system components together. That is different from the type of dynamic linking of the present invention. Figure 4 of Bunnell shows two kernel components linked together, which defines the level of dynamic linkage, in a Posix compliant API. Posix is a standard for operating systems, and Bunnell teaches an implementation of the standard system. Posix has nothing to do with the “dynamic linkage” recited in the claims. Bunnell describes a dynamic system call, not a dynamic linkage. At column 10, lines 60-66, Bunnell merely describes dynamically establishing relationships between global functions and symbols. This is not a description of a system handler dynamically linked to a gaming program object.

Effects of the Limitation on Establishing Non-Obviousness

This is extremely material with respect to the new limitations added to the claims. As noted, the system of Bunnell provides an API directly to applications (see Figures 2 and 4 of Bunnell), and the linking is only between the system handler and the objects. All of the present claims emphasize this fundamental difference by requiring that the objects call up a function from within the API. This is not a trivial difference. A gaming system that operate in this manner enhances security, which is a primary obligation and requirement of gaming equipment. There is no suggestion in Bunnell for this modification specifically needed in the gaming industry because Bunnell has no concept of the requirements of the gaming industry. Applicants have not noted this specific feature in the four other secondary references cited in later rejections under 35 USC 103(a). As this feature is not disclosed in the references and as this feature is a unique advantage in the gaming environment that is not central to the primary reference (Bunnell), the claims (1-47 and 49-54) reciting this limitation are not obvious from the art cited in the rejection.

The difference of the capability and actual performance at “higher levels” within the software is well understood in the art in general terms, and is spelled out clearly in the practice of the present invention in the dynamic linking of the system handler to the casino gaming objects.

Software is written in different hierarchies of content. As one progresses from kernel level, to user API level, to object level etc., the program becomes more abstract moving up the hierarchy of the software. The kernel actually talks directly to hardware, then hardware can use game functions API to execute the gaming performance. This is what is meant when this response refers to a higher level of performance as compared to the software and operating systems of the references, where they do not operate at that level of abstraction.

Claim 48 also recites that, in addition to the novel operation of the software in the execution of data and objects, the system operates to verify that the operating system kernel or a code for a shared object has not changed. Bunnell does not show the combination of the recited execution of software and the verification process. Claims 55-57 also recite this additional step.

In addition, the performance of a dynamic linkage, as recited in these claims, allows for dynamic unlinking. This means that we can unload a game object and replace it with another game object as recited in other claims. This functionality, as recited in claims 5, 19 21, 22, 23, 25, and 26. For example, the recitations in claim 19 includes:

19. A machine-readable medium with instructions thereon, the medium being within a wagering apparatus, the instructions when executed operable to cause a computer to:

cause a system handler application load and execute gaming program objects;

cause a loaded gaming program object to call up a library of functions;

load a first program object from the library,

execute the first program object,

store data variables in nonvolatile storage, such that a second program object in the library later loaded can access the data variables in nonvolatile storage,

unload the first program object, and

load the second program object.

This functionality is not taught, enabled or suggested by Bunnell et al., alone or in combination with all of the secondary references.

Column 11, lines 20-65 of Bunnell describe “Dynamic System Call Management,” which again is not a disclosure of a system handler that dynamically links to a gaming program object. The term “dynamic linkage” as used in the present invention and as described in the specification and understood in the art defines a linkage above the user program level, which is above the kernel level shown in the Figure (4 of Bunnell et al.) and as described in the specification of Bunnell. In addition, the user program links in the shared objects are gaming specific, which is not shown by Bunnell and is not motivated by the four additional references cited in the rejection. In the practice of the present invention, the dynamic linkage is also used with the API. This is quite distinct from Bunnell’s POSIX system call for the API. This is sufficiently distinct as to have warranted the filing of new claims 52-54 to clearly claim that distinct feature.

The five times that dynamic system calls are referred to by Bunnell et al. on column 12 (lines, 4-67) do not in any way contradict the earlier usage or expand on that usage to indicate to one skilled in the art that a system handler can be dynamically linked to a gaming program object. Similarly, the reference on Column 13, lines 22-26 to a Dynamic System Call Table does not in any way improve upon the deficiencies noted with regard to the disclosure of Bunnell. That reference, and none of the secondary references, shows the dynamic linking of a system handler application to a program game object. Nothing equivalent to that has been shown to be taught by Bunnell et al. or any of the secondary references used in the rejection.

It is therefore clear, that even above the thirteen deficiencies that the Examiner has noted in Bunnell, there is another, and even more egregious deficiency that has not been asserted to be obvious in view of the secondary references.

Turning now to the thirteen deficiencies in the Bunnell et al. reference, the mere number of differences that the Office Action attempts to take Official Notice of is in itself an indication of the extent of difference between the teachings of Bunnell et al. and the claimed invention. Additionally, the statement that these features are “typical game device methods implemented on a PC” is challenged, as is the general taking of Official Notice on these limitations. The use of PC’s in the gaming industry (as opposed to games) is relatively new. The use of a PC to effect these procedures and provide those functions was not obvious to applicants at the time of filing the Application. The extensive amount of work needed to enable the practice of these functions on a PC clearly indicates that there is neither obviousness nor ability to take Office Notice of those limitations, particularly within a gaming environment.

It is important to note here the environment of the present invention in the gaming industry. Applicants do not deny that it has been possible to use modern PC’s and Operating Systems to write

games, as that has been accomplished by the inventors. However, it was not obvious or instructed in the prior art or available in inherent components in available PC's and Operating Systems to meet Gaming Regulations. Additionally, gaming systems require significant and critical security in their communication systems, both internally and with outside sources of communication. Failure to provide such security would fail to meet both Gaming Commission requirements and the security needs of casino operators. No such communication security is generally required or used in arcade games. As described and enabled in the specification, extensive modifications, enhancements and safeguards were needed to effect gaming and system designs that could meet the stringent regulation standards, and adapt PC's to the casino environment. Accomplishing this result with a system handler dynamically linked to gaming program objects was not taught by any of the references cited in the rejection, either alone or in combination. The system handler as recited in the claims also provides the API to gaming program objects for security reasons. This is quite distinct from dynamic linkages that have been used in prior art systems of record in the art used in the rejection (if any) in which a program object provides an API to the Application (as done by Bunnell). The procedure of the invention is not taught by Bunnell.

The prior art of record also does not recognize the benefits of the dynamic linking recited in the practice of the invention. Because objects are loaded and then unloaded before the next object is loaded, resources in the memory are preserved, which is always an issue in the use of computer-based systems. This can enable the system to work more efficiently and more rapidly because of this dynamic linking and memory space utilization.

c) Claims 13, 14, 18-27 and 49 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Fullerton (U.S. Patent No. 4,607,844).

Even if the asserted basis for the citation of Fullerton as set forth in the Office Action is completely accurate (e.g., Fullerton is cited as showing "a gaming machine that stores data variables in non-volatile storage to increase security due to tampering or loss of power..."), Fullerton does not overcome the fundamental deficiency that Bunnell and Fullerton do not show or provide any motivational basis for having the API called up from the gaming objects. In the absence of that showing, there can be no obviousness of these claims.

d) Claims 15 and 49 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Fullerton (U.S. Patent No. 4,607,844) (as above) when further considered with Pascal et al. (U.S. Patent No. 5,791,851).

Insofar as Pascal is cited to show that alternative operating systems that have call back functions in a **game machine** (not gaming machine), that teaching is accepted. However, Pascal provides no teaching whatsoever to overcome each and every one of the deficiencies noted above with respect to the teachings of Bunnell alone or Bunnell in view of Fullerton. The rejection of claims 15 and 49 must therefore fail for at least the reasons that the lack of teaching of the recited and claimed elements of the claims from which these claims are dependent are not shown by Bunnell and those deficiencies are not overcome by Pascal.

e) Claims 28-33 have been rejected under 35 U.S.C. 103(a) as unpatentable over Houriet, Jr. et al. (U.S. Patent No. 5,575,717) in view of Mitchell et al. (U.S. Patent No. 5,872,973).

These references fail to show the specific features that have been added to these claims regarding calling up an API from the gaming objects. All of the arguments presented above with respect to the Bunnell reference (and Bunnell combined with one or more other references) are applicable to this rejection in the same way. The fact that no reference of record shows the function of this limitation absolutely establishes that the claimed invention is unobvious over the art used in the rejections against the claims.

f) Claims 7, 8, and 14 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of David A. Rusling, *The Linux Kernel*, (Herinafter “Rusling”).

Insofar as Rusling is cited to show that Linux is a useful and advantageous operating system, that teaching is accepted. However, Rusling provides no teaching whatsoever to overcome each and every one of the deficiencies noted above with respect to the teachings of Bunnell alone. The rejection of claims 7, 8 and 14 must therefore fail for at least the reasons that the lack of teaching of the recited and claimed elements of the claims from which these claims are dependent are not shown by Bunnell and those deficiencies are not overcome by Rusling.

g) Claims 9, 10, 17, 38, 44 and 47 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Pascal (as applied to claims 22, 23) in further view of Bock (U.S. Patent No. 5,155,856) and Davis (U.S. Patent No. 6,401,208).

As noted above with respect to Pascal, the fundamental deficiencies and lack of teaching of limitations in the independent claims found in Bunnell are not corrected by Pascal. The citation of Bock and Davis for their specific elements of disclosure for dependent claims do not correct the deficiencies that were not addressed by Bunnell in view of Pascal. These claims are therefore

patentable because of their ultimate dependence from unobvious independent claims. Even assuming that the teachings of Bock and Davis are accurate for what is asserted, they do not overcome the earlier deficiencies and cannot establish obviousness of the dependent claims.

Additionally, Bock et al. has been cited as showing zeroing-out unused registers, asserting that is what is recited in claims 9, 17, 44, and 47. That is not equivalent to what is done in the present invention by zeroing out memory. The teaching of Bock et al. asserted by the Office Action to describe a method of zeroing out unused registers to provide security during booting up is not equivalent to "...an operating system kernel that is customized to disable selected device handlers..." recited in the claims and the disabling of selected device handlers. Those are immaterial to the booting up security described by Bock et al. Even more importantly, the methods described in Bock et al. are implemented by hardware. The device handlers recited in the claims of the present invention which zero out memory are implemented in software. This means that in the practice of the invention recited in the claims, there is a CPU that fetches instructions from memory, and it is those instructions that causes the CPU to zero out memory. This zeroing out is not performed during boot-up, but during actual operation of the machine.

h) Claims 45, 46 and 50-51 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Wiltshire (U.S. Patent No. 6,409,602).

Similar to the arguments that the secondary references (Pascal, Rusling, Davis, and Bock) do not either overcome the deficiencies of Bunnell, Wiltshire does not teach the fundamental limitations of the claims and therefore cannot improve or correct the earlier rejection.

i) Claims 4, 5, 38 and 55-57 have been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Arbaugh et al. (U.S. Patent No. 6,185,678).

Again, even if Arbaugh does provide a sufficient teaching for the elements of the claims for which it has been cited, Arbaugh does not correct the deficiencies of Bunnell which have been extensively discussed above. As the underlying failures of Bunnell have not been overcome by the teachings of Arbaugh, the rejection still remains in error for the reasons cited above.

j) Claim 6 has been rejected under 35 USC 103(a) as unpatentable over Bunnell in view of Arbaugh et al. (U.S. Patent No. 6,185,678) (as above) in further view of Pascal.

Insofar as Pascal is cited to show that alternative operating systems that have call back functions in a game machine (not gaming machine), that teaching is accepted. However, Pascal

provides no teaching whatsoever to overcome each and every one of the deficiencies noted above with respect to the teachings of Bunnell alone or Bunnell in view of Arbaugh. The rejection of claim 6 must therefore fail for at least the reasons that the lack of teaching of the recited and claimed elements of the claims from which these claims are dependent are not shown by Bunnell and Arbaugh and those deficiencies are not overcome by Pascal.

SUMMARY OF ARGUMENTS

The primary reference not only fails to establish utility of the teachings of that reference in the field of gaming, but also, in addition to the thirteen elements and limitations of the invention acknowledged by the Office Action to be missing from the Bunnell et al. reference, that reference fails to describe, suggest or enable a system handler to dynamically link to at least one gaming program object. The four secondary references fail to teach these limitations and fail to teach the specific limitations for which they were cited in the Office Action.

CONCLUDING REMARKS

The Examiner is invited to contact Applicant's Representatives, Mark A. Litman & Associates, P.A. at (952) 832.9090, if any further changes need to be made to the claims. Authorization is hereby given to charge any fees that are owed for the submission of these drawings to Deposit Account Number 50-1391.

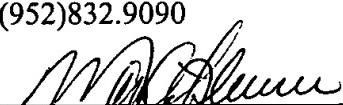
Respectfully submitted,

MICHAEL G. MARTINEK et al

By their Representatives,

Mark A. Litman & Associates, P.A.
York Business Center, Suite 205
3209 West 76th Street
Edina, MN 55435
(952)832.9090

Date: June 20, 2003 By



Mark A. Litman
Reg. No. 26,390

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 20, 2003.

Mark A. Litman

Signature 